

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DANIEL ROSAS,)
)
)
Plaintiff,)
) CIVIL ACTION
v.)
) 08cv1678
WILMETTE PARK DISTRICT and MIKE) Judge Lefkow
MATCHEN,)
) Mag. Judge Cox
Defendants.)

DEFENDANT MIKE MATCHEN'S MOTION TO DISMISS

Defendant Mike Matchen, by his attorneys Gregory R. James, Jr. and Lawrence Jay Weiner of Laner Muchin Dombrow Becker Levin and Tominberg, Ltd., and pursuant to Federal Rule of Civil Procedure 12(b)(6), respectfully moves that he be dismissed as a named Defendant in the captioned case for the following reasons:

1. The Defendant Mike Matchen was not named as a respondent in either of Plaintiff's charges of discrimination. 42 U.S.C.A. §2000e-5(f)(1); *Schnellbaecher v. Baskin Clothing Co.*, 887 F.2d 124 (7th Cir. 1989); *Eggleson v. Chicago Journeymen Plumbers' Local Union No. 130*, U.A., 657 F.2d 890 (7th Cir. 1981). 784 F.2d 835 (7th Cir. 1986). Cf. *Ellis v. U.S. Postal Service*, 784 F.2d 835 (7th Cir. 1986).
2. The Defendant Mike Matchen is a supervisor; and, therefore, cannot be sued in his individual capacity. *Tomka v. Seiler Corp.*, 66 F.3d 1295 (2d Cir. 1995); *Sheridan v. E.I. DuPont de Nemours and Co.*, 100 F.3d 1061 (3d Cir. 1996); *Lissau v. Southern Foot Service, Inc.*, 159 F.3d 177 (6th Cir. 1998). Cf. *Ellis v. U. S. Postal Service, supra*.

WHEREFORE, the Defendant Mike Matchen respectfully submits that he be dismissed as a named Defendant in the captioned case with prejudice, and without attorneys' fees, expenses or costs.

Date: August 13, 2008

Mike Matchen, Defendant

By: s:\Lawrence J. Weiner.
One of His Attorneys

Lawrence Jay Weiner (02965186)
lweiner@lanermuchin.com
Gregory R. James, Jr. (06198667)
gjames@lanermuchin.com
Laner Muchin Dombrow Becker
Levin and Tominberg, Ltd.
515 North State Street, Suite 2800
Chicago, IL 60654
(312) 467-9800
(312) 467-9479 (fax)
Attorneys for Defendant Mike Matchen

CERTIFICATE OF SERVICE

I, Lawrence J. Weiner, an attorney, hereby certifies that he caused the foregoing Defendant Mike Matchen's Motion to Dismiss to be delivered to the Court's drop box at room 1932 per the Orders of the Honorable Joan Lefkow, and filed via Electronic Filing with the Clerk of court, and to be served on counsel of record for the Plaintiff, through the U.S. District Court, Northern District of Illinois e-filing system, on this 13th day of August 2008, addressed to:

John F. Verhey, Esq.
DLA Piper US LLP
203 N. LaSalle, 19th Floor
Chicago, Illinois 60601
312/368-4044 Phone
john.verhey@dlapiper.com

/s/ Lawrence J. Weiner
Lawrence J. Weiner

Lawrence J. Weiner (02965186)
lweiner@lanermuchin.com
Gregory R. James, Jr. (06198667)
gjames@lanermuchin.com
Laner, Muchin, Dombrow, Becker,
Levin and Tominberg, Ltd.
515 North State Street
Suite 2800
Chicago, Illinois 60610
(312) 467-9800
(312) 467-9479 (fax)